



SECURITIES AND EXCHANGE COMMISSION
[Release No. 34-97454; File No. SR-PEARL-2023-21]

Self-Regulatory Organizations; MIAX PEARL, LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change to Amend Exchange Rule 2622, Limit Up-Limit Down Plan and Trading Halts

May 8, 2023.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (“Act”),¹ and Rule 19b-4 thereunder,² notice is hereby given that on May 3, 2023, MIAX PEARL, LLC (“MIAX Pearl” or the “Exchange”) filed with the Securities and Exchange Commission (“Commission”) a proposed rule change as described in Items I and II below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization’s Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to make a correction to a recently filed proposal to amend Exchange Rule 2622, which sets forth common criteria and procedures for halting and resuming trading in equity securities on the Exchange’s equity trading platform (referred to herein as “MIAX Pearl Equities”) in the event of regulatory or operational issues.

The text of the proposed rule change is available on the Exchange’s website at <http://www.miaxoptions.com/rule-filings/pearl> at MIAX Pearl’s principal office, and at the Commission’s Public Reference Room.

¹ 15 U.S.C. 78s(b)(1).

² 17 CFR 240.19b-4.

II. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization’s Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

In conjunction with the adoption of an amended Nasdaq UTP Plan proposed by its participants (“Amended Nasdaq UTP Plan”),³ the Exchange recently amended Exchange Rule 2622 to integrate several definitions and concepts from the Amended Nasdaq UTP Plan and to reorganize the rule in light of the Exchange’s experience with applying the rule over the past few years as a national securities exchange.⁴ In sum, the proposal amended Exchange Rule 2622 to set forth common criteria and procedures for halting and resuming trading in equity securities on MIAX Pearl Equities in the event of regulatory or operational issues. As part of that proposal, the Exchange adopted paragraph (h)(3)(C)(ii) of Exchange Rule 2622, which provides that

³ On February 11, 2021, the Nasdaq UTP Plan participants filed Amendment 50 to the Plan, to revise provisions governing regulatory and operational halts. See Letter from Robert Brooks, Chairman, UTP Operating Committee, Nasdaq UTP Plan, to Vanessa Countryman, Secretary, Securities and Exchange Commission, dated February 11, 2021. The Nasdaq UTP Plan subsequently filed two partial amendments to the 50th Amendment, on March 31, 2021 and on April 7, 2021. The Commission approved the amendments on May 28, 2021. See Securities Exchange Act Release No. 34-92071 (May 28, 2021), 86 FR 29846 (June 3, 2021) (S7-24-89). The Amended Nasdaq UTP Plan includes provisions requiring participant self-regulatory organizations (“SROs”) to honor a Regulatory Halt declared by the Primary Listing Market. The provisions in the Nasdaq UTP Plan, and the plan for consolidation of data for non-Nasdaq-listed securities, the Consolidated Tape System and Consolidated Quotations System (collectively, the “CTA/CQS Plan”), include provisions similar to the changes proposed by the Exchange in this filing.

⁴ See Securities Exchange Act Release No. 97093 (March 9, 2023), 88 FR 16045 (March 15, 2023) (SR-PEARL-2023-11).

“orders entered during the Operational Halt⁵ will not be accepted, unless subject to instructions that the order will be directed to another Trading Center.” The text of paragraph (h)(3)(C)(ii) of Exchange Rule 2622 was adopted in error since the Exchange does accept orders during an Operational Halt, as set forth under Exchange Rule 2615(e),⁶ described below. Paragraph (h)(3)(C)(ii) of Exchange Rule 2622, therefore, conflicts with existing provisions in Exchange Rule 2615(e). The Exchange proposes to amend paragraph (h)(3)(C)(ii) of Exchange Rule 2622 to clarify how the Exchange handles orders during an operational halt and to be consistent with current Exchange Rule 2615(e).

Exchange Rule 2615(e) describes the Exchange’s Re-Opening Process and provides, in sum, that while an equity security is subject to a halt, other than a halt initiated pursuant to Exchange Rule 2622(b)(2) following a Level 3 Market Decline, suspension, or pause in trading, the Exchange will accept orders for queuing prior to the resumption of trading in the security for participation in the Re-Opening Process. Exchange Rule 2615(e)(1) further provides, in sum, that the Re-Opening Process will occur in the same manner as the Exchange’s Opening Process,⁷ and enumerates certain exceptions. One exception is set forth under Exchange Rule 2615(e)(1)(A), which provides that Intermarket Sweep Orders (“ISOs”)⁸ and orders that include a time-in-force of Immediate-or-Cancel (“IOC”)⁹ will be cancelled or rejected, as applicable.¹⁰

⁵ Exchange Rule 2622(h)(1)(D) defines “Operational Halt” as having the same meaning as in Section X.A.7 of the Amended Nasdaq UTP Plan. Specifically, the Exchange defined Operational Halt to mean a halt in trading in one or more securities only on the market declaring the halt and is not a Regulatory Halt. An Operational Halt is effective only on the Exchange; other markets are not required to halt trading in the impacted securities. See also id.

⁶ See Securities Exchange Act Release No. 89563 (August 14, 2020), 85 FR 51510 (August 20, 2020) (SR-PEARL-2020-03) (adopting Exchange Rule 2615(e)).

⁷ See Exchange Rule 2615(a) – (c) for a description of the Exchange’s Opening Process.

⁸ See Exchange Rule 2614(d) for a description of ISOs.

⁹ See Exchange Rule 2614(b)(1) for a description of the IOC time-in-force.

¹⁰ Exchange Rule 2615(e)(1)(A) also provides that Orders with a time-in-force of Regular Hours Only (“RHO”) that include a Post Only instruction or a Minimum Execution Quantity instruction will be accepted and retained during a halt but are not eligible to participate in the Re-Opening Process. See Exchange Rule 2614(b)(2) for a description

These provisions conflict with recently adopted paragraph (h)(3)(C)(ii) of Exchange Rule 2622. The Exchange, therefore, proposes to amend paragraph (h)(3)(C)(ii) of Exchange Rule 2622 to be consistent with Exchange Rule 2615(e)(1).¹¹

As amended, paragraph (h)(3)(C)(ii) of Exchange Rule 2622 would provide that, “[d]uring any Operational Halt, the System will accept all orders, except orders designated as ISO and orders that include a time-in-force of IOC, for queuing and participation in the Re-Opening Process pursuant to Rule 2615(e).” As amended, paragraph (h)(3)(C)(ii) of Exchange Rule 2622 would reflect current functionality that is currently set forth under Exchange Rule 2615(e) and the proposed amendments would remove any chance for potential investor confusion regarding how the Exchange handles orders in equity securities during an Operational Halt. The Exchange does not propose any other changes to Exchange Rule 2622.

2. Statutory Basis

The Exchange believes that its proposal is consistent with the requirements of the Act and the rules and regulations thereunder that are applicable to a national securities exchange, and, in particular, with the requirements of section 6(b) of the Act.¹² Specifically, the proposal is consistent with section 6(b)(5) of the Act¹³ because it would promote just and equitable principles of trade, remove impediments to, and perfect the mechanism of, a free and open market and a national market system, and, in general, protect investors and the public interest because it proposes to correct paragraph (h)(3)(C)(ii) of Exchange Rule 2622 to reflect current functionality that is set for under Exchange Rule 2615(e) and remove any conflict between the two rules. The Exchange does not propose any other changes to Exchange Rule 2622. The

of the RHO time-in-force. See Exchange Rule 2614(c)(2) for a description of the Post Only instruction. See Exchange Rule 2614(c)(7) for a description of the Minimum Execution Quantity instruction.

¹¹ MIAX Pearl Equities has not experienced an Operational Halt since the proposed amendments to Exchange Rule 2622 were filed on February 28, 2023.

¹² 15 U.S.C. 78f(b).

¹³ 15 U.S.C. 78f(b)(5).

proposed rule change would prevent any potential investor confusion by providing clarity within the rule text and make the Exchange's rules easier to understand, thereby removing impediments to and perfecting the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended. The proposed rule change would not have any impact on inter-market competition or intra-market competition because it simply updates paragraph (h)(3)(C)(ii) of Exchange Rule 2622 to reflect current functionality that is set forth under Exchange Rule 2615(e) and removes any conflict between the two rules. The proposed rule change does not propose any new functionality, products, or services, and thus, would not have any impact on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (i) significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of the filing, or such shorter time as the Commission may designate, it has become effective pursuant to 19(b)(3)(A) of the Act¹⁴ and Rule 19b-4(f)(6)¹⁵ thereunder.

¹⁴ 15 U.S.C. 78s(b)(3)(A).

¹⁵ 17 CFR 240.19b-4(f)(6). In addition, Rule 19b-4(f)(6) requires a self-regulatory organization to give the Commission written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has satisfied this requirement.

A proposed rule change filed under Rule 19b-4(f)(6)¹⁶ normally does not become operative prior to 30 days after the date of the filing. However, pursuant to Rule 19b-4(f)(6)(iii),¹⁷ the Commission may designate a shorter time if such action is consistent with the protection of investor and the public interest. The Exchange has asked the Commission to waive the 30-day operative delay so that the proposed rule change may become operative upon filing. The Exchange states that the proposed rule change would remove potential investor confusion regarding how the Exchange handles orders in equity securities during an Operational Halt. For this reason, and because the proposed rule change does not raise any novel regulatory issues, the Commission believes waiving the 30-day operative delay is consistent with the protection of investors and the public interest. Therefore, the Commission hereby waives the operative delay and designates the proposal operative upon filing.¹⁸

At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act.

Comments may be submitted by any of the following methods:

Electronic Comments:

¹⁶ 17 CFR 240.19b-4(f)(6).

¹⁷ 17 CFR 240.19b-4(f)(6)(iii).

¹⁸ For purposes only of waiving the 30-day operative delay, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. See 15 U.S.C. 78c(f).

- Use the Commission's Internet comment form (<http://www.sec.gov/rules/sro.shtml>); or
- Send an e-mail to rule-comments@sec.gov. Please include File Number SR-PEARL-2023-21 on the subject line

Paper Comments:

- Send paper comments in triplicate to Secretary, Securities and Exchange Commission, 100 F Street, NE, Washington, DC 20549-1090.

All submissions should refer to File Number SR-PEARL-2023-21. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet website (<http://www.sec.gov/rules/sro.shtml>). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for website viewing and printing in the Commission's Public Reference Room, 100 F Street, NE, Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. Do not include personal identifiable information in submissions; you should submit only information that you wish to make available publicly. We may redact in part or withhold entirely from publication submitted material that is obscene or

subject to copyright protection. All submissions should refer to File Number SR-PEARL-2023-21 and should be submitted on or before [insert date 21 days from publication in the Federal Register].

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.¹⁹

Sherry R. Haywood

Assistant Secretary

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¹⁹ 17 CFR 200.30-3(a)(12), (59).